



## **H.R. 2693 – Popcorn Workers Lung Disease Prevention Act**

### **FLOOR SITUATION**

H.R. 2693 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Member of the Committee on Education and Labor.
- Waives all points of order against consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as an original bill for the purpose of further amendment and shall be considered as read.
- All points of order against the committee amendment in the nature of a substitute are waived except for clause 10 of Rule XXI.
- No further amendments shall be in order except those amendments printed in the Rules Committee report accompanying the resolution.
- Provides that amendments made in order in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.
- Waives all points of order against amendments printed in the report except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides one motion to recommit with or without instructions.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

H.R. 2693 was introduced by Representative Lynn Woolsey (D-CA) on June 13, 2007. The bill was ordered to be reported from the Committee on Education and Labor, by voice vote, on July 18, 2007.

H.R. 2693 is expected to be considered on the floor on September 26, 2007.

#### **AMENDMENTS**

- 1) Representative George Miller (D-CA): (MANAGER'S AMENDMENT) The amendment clarifies that a standard will only be needed if diacetyl is still in use. Second, it clarifies that Section 4, calling for a NIOSH study, applies to potential substitutes for diacetyl.
- 2) Representative Joe Wilson (R-SC): The amendment requires the Occupational Safety and Health Administration to wait until the National Institute for Occupational Safety and Health (NIOSH) concludes there is sufficient data to support a recommended exposure limit and establishes such recommended exposure limit before issuing a final standard.

#### **BACKGROUND**

From 2000 to 2002, the National Institute for Occupational Safety and Health (NIOSH) identified cases of a debilitating lung disease, bronchiolitis obliterans, in workers employed by microwave popcorn manufacturing plants. The illnesses were linked to exposure to diacetyl, a chemical commonly used in flavorings, including artificial butter flavoring.

NIOSH issued an alert in 2003 titled "Preventing Lung Disease in Workers Who Use or Make Flavorings" that recommends employers implement preventative measures to minimize workers exposure to diacetyl.

During 2004 to 2007, the State of California found cases of bronchiolitis obliterans in workers employed by the microwave popcorn manufacturing industry and instituted an intervention program to reduce worker exposure to diacetyl.

Although NIOSH's findings have not led to an OSHA standard, the SAP outlines the following measures taken by OSHA to strengthen worker protections:

- 1) Announcement of a regular rulemaking process under the Occupational Safety and Health Act to address occupational exposure to flavorings containing diacetyl;
- 2) Inspections at every microwave popcorn manufacturing plant in the nation within the calendar year to ensure that acceptable ventilation and other engineering controls are in place and that personal protective equipment is in use;

- 3) Issuance of a Safety and Health Information Bulletin that advises employers about diacetyl, recommends specific engineering and work practice controls to regulate exposures, and requires appropriate personal protective equipment and respiratory protection when handling diacetyl; and
- 4) Issuance of a guidance document about health hazard information that must be included on diacetyl material safety data sheets under the Hazard Communication standard.

## **SUMMARY**

H.R. 2693 requires the Secretary of Labor to create an interim final standard, not later than 90 days after the date of enactment, regulating worker exposure to diacetyl that would apply to the flavoring manufacturing industry, as well as the microwave popcorn manufacturing industry.

This legislation imposes workplace mandates on facilities that use, handle, or produce diacetyl. It requires the interim final standard to provide no less protection than the recommendations made in the 2003 NIOSH alert. These recommendations include substituting a less hazardous material for diacetyl, establishing standard work practices and respiratory protections to minimize worker exposure to diacetyl, educating employees on the risks and symptoms associated with working/handling diacetyl, and monitoring diacetyl exposure levels and worker health.

*Note: The Statement on Administration Policy (SAP) states “the expedited rulemaking required by H.R. 2693 would not allow OSHA sufficient time to gather and analyze the kind of evidence and information needed to ensure the promulgation of a standard that adequately protects workers,” and expresses concern that “the interim standard mandated by this legislation will not be open for comment by stakeholders, particularly small business.”*

H.R. 2693 instructs NIOSH to conduct a study on food flavorings used in the production of microwave popcorn and recommend exposure limits for flavorings they determine to be hazardous.

## **COST**

“CBO estimates that implementing H.R. 2693 would cost approximately \$1 million in 2008, assuming appropriation of the necessary amounts. CBO assumes these funds would be used primarily to fund the NIOSH study required by the bill. Costs in 2009 would not be significant. Enacting the bill would not affect revenues or direct spending.”  
[Congressional Budget Office Cost Estimate](#)

## **ADMINISTRATION POSITION**

According to the SAP, “The Administration strongly opposes House passage of H.R. 2693, “Popcorn Workers Lung Disease Prevention Act,” in its current form.”

**STAFF CONTACT**

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